



STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

PAUL R. LEPAGE  
GOVERNOR

DARRYL N. BROWN  
COMMISSIONER

To: Board of Environmental Protection

From: Timothy Wright and Michael Hudson, Hazardous Waste Enforcement Unit, Bureau of Remediation and Waste Management (BRWM)

Date: April 21, 2011

RE: Administrative Consent Agreement -  
Parsons Kitchens, Inc., Brownfield, Maine

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Statutory and Regulatory Reference: The Hazardous Waste Management Rules, Chapters 850 through 857 adopted pursuant to the Maine Hazardous Waste, Septage and Solid Waste Management Act, 38 M.R.S.A. §§ 1301 et seq., specifies certain requirements for the management, storage, treatment and disposal of hazardous waste.

Location: Parsons Kitchen, Inc., Brownfield, Maine

Description: Parsons Kitchens, Inc. has entered into the attached Consent Agreement as proposed by Department staff in order to resolve violations of Maine's Hazardous Waste Management Rules. The hazardous waste violations were identified during inspections conducted at Parsons Kitchens, Inc. on June 16, 2009 and June 25, 2009. The violations identified include the following: 1) discharge of hazardous matter and failure to immediately report and remove the discharges to the Department's satisfaction, 2) treatment or disposal of hazardous waste without a license to do so, 3) failure to determine if wastes generated were hazardous wastes, 4) failure to label containers of hazardous waste with the words "Hazardous Waste", 5) failure to store hazardous wastes in a closed container, 6) failure to obtain a U.S. Environmental Protection Agency (EPA) generator identification number, 7) failure to store hazardous waste on a firm working surface, 8) failure to conduct and document daily inspections of containers of hazardous waste, and, 9) treatment and disposal of universal waste lamps in violation of the rules.

To resolve these violations, Parsons Kitchens, Inc. has taken corrective actions as specified by the Department and documented by Parsons Kitchens, Inc. in correspondence to the Department dated October 29, 2009. In addition, Parsons Kitchens, Inc. has agreed to pay to the Maine Hazardous Waste Fund a penalty of Eight Thousand Dollars (\$8,000.00) as specified in the Agreement.

The Maine Hazardous Waste Fund is established by statute to provide the Department with the capability for prompt and effective response to spills and unlicensed discharges of hazardous waste, and for the inspection or supervision of hazardous waste handlers and related hazardous waste

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activities. Pursuant to statute, all fees, penalties, interest, and other charges relative to those activities must be credited to the Maine Hazardous Waste Fund.

A significantly higher penalty of \$34,500 was originally proposed in this case based upon the type of violations involved, the amount of waste involved, the relative extent of deviation from the requirements, and economic benefit realized. However, Parsons Kitchens, Inc. claimed that it did not have the ability to pay the assessed penalty of \$34,500. As a result of that claim, the Department reviewed the most recent 5 years of income tax returns for the company and performed an ability-to-pay analysis of the company's financial status. The analysis indicated that Parsons Kitchens, Inc. does not have the finances available to pay the originally assessed penalty, but that it can afford to pay an adjusted penalty of \$8,000. As a result, the penalty has been revised to attain a resolution of the violations and collect a penalty of an acceptable amount as indicated by the ability-to-pay analysis. Aggravating factors included the discharge of hazardous matter, treatment or disposal of hazardous waste without a license to do so, and failure to determine if wastes generated were hazardous waste.

Department Recommendation:

The Department recommends that the Board accept the Consent Agreement as part of its Consent Agenda to resolve the issues addressed.

Staff Contact persons:

Timothy Wright and Michael Hudson, Hazardous Waste Enforcement Unit, BRWM

Estimated time of presentation: No presentation; Consent agenda item



STATE OF MAINE  
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PAUL R. LEPAGE  
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IN THE MATTER OF:

PARSONS KITCHENS, INC.	)	ADMINISTRATIVE CONSENT
510 HAMPSHIRE RD., BROWNFIELD	)	AGREEMENT
OXFORD COUNTY, MAINE	)	(38 M.R.S.A. § 347-A)
HAZARDOUS WASTE ACTIVITIES	)	

This Agreement, by and among Parsons Kitchens, Inc., the Maine Department of Environmental Protection ("Department"), and the Maine Office of the Attorney General, is entered into pursuant to the laws concerning the Department's *Organization and Powers*, 38 M.R.S.A. § 347-A(1).

THE PARTIES AGREE AS FOLLOWS:

1. Parsons Kitchens, Inc. (hereafter Parsons) is a Maine corporation that operates a custom cabinet shop with its principal location at 510 Hampshire Road, Brownfield, Maine. Lawrence "Larry" Parsons is the president of the corporation.
2. The violations described here occurred at 510 Hampshire Road in Brownfield, Maine.
3. Parsons is a generator of hazardous waste including, but not limited to, ignitable paint related waste. As a result, Parsons is subject to Maine's *Hazardous Waste, Septage and Solid Waste Management Act* ("Act") 38 M.R.S.A. §§ 1301 through 1319-Y and the Department's *Hazardous Waste Management Rules* ("Rules"), 06-096 CMR 850-857.
4. On June 16 and June 25, 2009, in response to a complaint, Department staff conducted inspections of Parsons at the location described in Paragraph 2 of this Agreement to assess compliance with the hazardous waste management standards of the Act and Rules. During the June 25, 2009 inspection Department staff sampled paint residue outside the paint booth exhaust and incurred One Hundred Thirty Dollars (\$130.00) in laboratory fees. The inspections revealed the following violations:
  - A. Parsons discharged hazardous waste and hazardous matter to the lands of the state, in violation of 38 M.R.S.A. §§ 1306(3) and 1317-A, respectively, and failed to immediately report the discharges and remove the discharges to the Department's satisfaction, in violation of 38 M.R.S.A. §§ 1318-B(1) and (3), respectively.

Specifically, during the inspection Larry Parsons acknowledged routinely discharging or dumping ignitable hazardous waste lacquer thinner onto a burn pile, sometimes as often as once per month, for a period of approximately twenty (20)

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IN THE MATTER OF:

PARSONS KITCHENS, INC.  
510 HAMPSHIRE RD., BROWNFIELD  
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)

years, and failing to immediately report and remove the discharges as required. The burn pile consists of an area approximately fifty feet by fifty feet in size located on-site behind the paint shop and has been used for burning wood scraps and various other wastes.

- B. Parsons treated or disposed of hazardous wastes without a license to do so, in violation of 06-096 CMR 851(12)(A).

Specifically, Parsons treated or disposed of ignitable hazardous waste lacquer thinner by burning it in the burn pile referenced in Paragraph 4A of this Agreement. During the inspection, Larry Parsons admitted burning waste lacquer thinner in the burn pile, sometimes as often as once per month, for approximately twenty (20) years.

- C. Parson's failed to determine if wastes generated were hazardous wastes, in violation of 06-096 CMR 851(5).

Specifically, Parsons failed to determine that the ignitable waste lacquer thinner described in Paragraphs 4A and 4B of this Agreement was hazardous waste and failed to determine whether the following wastes were hazardous waste:

- 1) One (1) full and one (1) partial five-gallon container of waste lacquer thinner in the paint booth. The Material Safety Data Sheet for lacquer thinner used by Parsons states that it has a flash point of 53 degrees Fahrenheit. Wastes with a flash point less than or equal to 140 degrees Fahrenheit are hazardous waste due to ignitability.
- 2) Five (5) full five-gallon, two (2) full and four (4) partial one-gallon containers of waste lacquer thinner located on bare soils behind the woodshop and next to the burn pile. The Material Safety Data Sheet for lacquer thinner used by Parsons states that it has a flash point of 53 degrees Fahrenheit. Wastes with a flash point less than or equal to 140 degrees Fahrenheit are hazardous waste due to ignitability.
- 3) Approximately two hundred (200) gallons of unusable or unwanted paint-related wastes located in a wooden shed. Material Safety Data Sheets for paints and finishes used by Parsons state they have flash points less than 140 degrees Fahrenheit. Wastes with a flashpoint less than or equal to 140 degrees Fahrenheit are hazardous waste due to ignitability. In addition, Parsons acknowledged these wastes were hazardous waste by signature of a hazardous waste manifest for these wastes on September 8, 2009.

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- D. Parsons failed to label containers of hazardous waste with the words "Hazardous Waste" and date when waste first began accumulating in the container, in violation of 06-096 CMR 851(8)(B)(3).

Specifically, at the time of inspection, the containers described in paragraph 4C of this Agreement were not labeled or dated as required.

- E. Parson's failed to store hazardous waste in a closed container, in violation of 06-096 CMR 851(8)(B)(2).

Specifically, the partial five-gallon container of waste lacquer thinner described in paragraph 4C(1) of this Agreement was open at the time of inspection.

- F. Parsons generated certain quantities of hazardous waste without first obtaining a generator identification number for hazardous waste generation assigned by the U.S. Environmental Protection Agency (U.S. EPA), in violation 06-096 CMR 851(6)(A)(1) and 06-096 CMR 850(3)(A)(5)(d)(vii)(b).

Specifically, Parsons generated and accumulated over fifty-five gallons of hazardous waste without first obtaining a U.S. EPA generator identification number. At the time of inspection, Parsons had accumulated approximately two hundred forty (240) gallons of hazardous waste.

- G. Parsons failed to store hazardous waste on a firm working surface which prevents spillage from leaving the area and failed to provide secondary containment of hazardous waste, in violation of 06-096 CMR 851(13)(B)(1) and (2).

Specifically, Parsons stored hazardous waste described in Paragraph 4C(2) of this Agreement on bare soil next to the burn pile and stored hazardous wastes described in Paragraph 4C(3) of this Agreement in a wooden shed with no secondary containment.

- H. Parsons failed to conduct and document daily inspection of containers of hazardous waste, in violation of 06-096 CMR 851(13)(D).

Specifically, Parsons did not conduct or document daily inspections of the containers of hazardous waste described in Paragraph 4C of this Agreement.

- I. Parsons treated and disposed of universal waste fluorescent lamps, in violation of 06-096 CMR 850(3)(A)(13)(c)(i).

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Specifically, at the time of inspection several broken fluorescent lamps were found in the burn pile. Parsons had broken and disposed of these universal waste lamps in the burn pile. The intentional breaking of universal waste lamps, which is a form of treatment, and their disposal is prohibited.

5. On August 20, 2009, the Department issued a Notice of Violation (NOV) to Parsons Kitchen's for the activities described in Paragraph 4 of this Agreement, in accordance with 38 M.R.S.A. § 347-A(1)(B). In the NOV, the Department requested that Parsons perform corrective actions and respond to the Department in writing within thirty (30) days describing the corrective actions undertaken to address each of the violations cited. Specific corrective actions requested by the Department included, but were not limited to, the following:
- A. Henceforth, comply with 38 M.R.S.A. §§ 1301 through 1319-Y and all applicable standards of the Rules, Chapters 850 through 857, pertaining to generators of hazardous waste.
  - B. Immediately cease the discharge of hazardous matter to the lands of the State.
  - C. Immediately cease the treatment/disposal of hazardous waste without a license to do so.
  - D. Immediately cease the intentional breakage of universal waste lamps.
  - E. Immediately and henceforth determine through knowledge or testing whether all wastes generated are hazardous waste.
  - F. Immediately and henceforth, comply with requirements of small quantity generators of hazardous waste and generate no more than one half (1/2) a fifty five gallon drum of hazardous waste per month or store more than one (1) fifty five gallon drum of hazardous waste at any time unless the facility submits a "Notice of Regulated Waste Activity" EPA Form #8700-12 and obtains a U.S. EPA identification number and complies with all applicable management requirements for fully regulated generators of hazardous wastes, including but not limited to, daily inspections for hazardous waste containers and storage of hazardous wastes on a firm working surface with secondary containment.
  - G. Immediately and henceforth keep all containers of hazardous waste closed unless adding or removing waste.

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- H. Immediately and henceforth label all containers of hazardous waste with the words "Hazardous Waste" and the accumulation start date.
  - I. Immediately and henceforth properly containerize universal waste lamps and other universal wastes and label the containers with the waste type (i.e. "Waste Lamps"), the accumulation start date and the date the container becomes full and store the container(s) in a designated inside area with signage stating "Universal Waste Storage Area".
  - J. Within ten (10) days receipt of the NOV, ship the hazardous wastes described in the NOV via a Maine licensed hazardous waste transporter and submit copies of hazardous waste manifests to my attention.
  - K. Within thirty (30) days receipt of the NOV, reimburse the Department the sum of One Hundred Thirty Dollars (\$130.00) for laboratory fees for sampling of paint residues conducted during the June 25, 2009 inspection.
  - L. Within thirty (30) days receipt of the NOV, submit to the Department for review and approval a soil sampling plan for the burn pile area where hazardous wastes were disposed/treated. The plan must include analysis for TCLP metals and semivolatile organic compounds, EPA Method 8260 and must specify the proposed number of samples, their locations, depths, sampling methods and preservation methods.
  - M. Within sixty (60) days of Department review and approval, implement the sampling plan as approved and submit the results to the Department.
  - N. Should the results of the sampling required under the NOV indicate levels of contamination which the Department determines requires remediation, submit a remedial action plan to the Department upon its request for review and approval and implement the plan as approved.
  - O. Henceforth, comply with the special requirements for universal waste standards pursuant to the Rules, Chapter 850, Section 3(A)(13) for all universal waste.
  - P. Within thirty (30) days of receipt of the NOV, respond to the Department in writing documenting corrective actions taken to address each of the above cited violations to gain compliance and to ensure that the violations do not recur.
6. On August 17, 2009, Parsons contacted the Department after receiving a quote for soil sampling and analysis and stated they could not afford the expense. The Department

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offered to take the soil samples, pay for the sampling with monies from the Maine Hazardous Waste Fund, and seek reimbursement from Parsons for the Department's expenditures.

7. On August 24, 2009 Parsons requested an extension to respond to the NOV due to medical reasons.
8. On September 2, 2009, Parsons reimbursed the Department One Hundred Thirty Dollars (\$130.00) for laboratory fees incurred for sampling of paint residues conducted during the June 25, 2009 inspection.
9. On October 29, 2009 Parsons submitted to the Department a written response to the NOV, indicating the corrective actions undertaken to address the violations. The corrective actions indicated included, but are not limited to, the following:
  - A. Parsons indicated it ceased treatment and disposal of hazardous waste by burning.
  - B. On September 8, 2009 Parsons shipped hazardous wastes documented during the inspection via a Maine licensed hazardous waste transporter to a disposal facility.
  - C. Parsons indicated it is conducting daily inspections of hazardous waste containers and containers are labeled "hazardous waste" and kept closed when not in use.
  - D. Parsons indicated that it established a universal waste storage area.
  - E. Parsons indicated it had substituted water-based finishes for most coatings to reduce its generation of hazardous waste.
10. On November 10, 2009, Department staff collected soil samples from an area where ignitable hazardous wastes were stockpiled prior to treatment or disposal by burning and from the burn pile site. Laboratory analyses of the samples collected indicated the presence of listed hazardous wastes at both locations. Waste contaminants detected included, but are not limited to, acetone, methyl isobutyl ketone, ethyl benzene, xylene and toluene. No contaminants were detected above the Department's Remedial Action Guidelines.
11. The Department incurred Four Thousand Five Dollars (\$4,005.00) in laboratory fees for soil sampling analyses, which were paid with monies from the Maine Hazardous Waste Fund. On December 28, 2009, the Department issued a letter to Parsons seeking reimbursement to the Maine Hazardous Waste Fund, in accordance with 38 M.R.S.A. § 1319-G(1), for the laboratory fees. Parsons has fully reimbursed the Department.



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12. Pursuant to 38 M.R.S.A. §§ 341-D(6)(C) and 347-A(1)(A)(1), administrative consent agreements must be approved by the Board of Environmental Protection ("Board"), which is part of the Department.
13. This Agreement shall become effective only if it is approved by the Board and the Office of the Attorney General.
14. To resolve the violations referenced in Paragraph 4 of this Agreement, Parsons agrees to:
  - A. Within thirty (30) days of Parsons' signature of this Agreement, test the southerly well located on the Parsons site for Volatile Organic Compounds (VOCs) and Semi-Volatile Organic Compounds (SVOCs) using EPA Methods 8260 and 8270, respectively, and submit a copy of the results to the Department upon receipt. The samples should be taken from a tap for the well where there are no paints or solvents in use and collected by a person who has not been exposed to paints or solvents in accordance with sampling procedures, using a sample container, acceptable for the laboratory method; and if the results indicate any contaminants above the drinking water standards, implement any Department-issued requirements pursuant to a Department-issued schedule to address, mitigate, filter, abandon-the-well, or undertake other specified corrective actions in order to prevent exposures to any contaminated drinking water; and
  - B. Immediately upon Parsons' signature of this Agreement, pay to the Treasurer, State of Maine c/o Hazardous Waste Fund, a civil monetary penalty in the amount of Eight Thousand Dollars (\$8,000.00).
15. The Department and Office of the Attorney General grant a release of their causes of action against Parsons for the specific violations listed in Paragraph 4 of this Agreement on the express condition that all actions listed in Paragraph 14 of this Agreement are completed in accordance with the express terms and conditions of this Agreement, except that no release is granted for any contamination of surface waters, ground waters, soils, sediment or ambient air as a result of the violations set forth in this Agreement. This Agreement shall not prohibit the Department from requiring additional corrective measures or other remedial actions if the Department determines that such action is necessary to protect public health, safety, or the environment. This limited release shall not become effective until all requirements of this Agreement are satisfied.
16. Non-compliance with this Agreement voids the release set forth in Paragraph 15 of this Agreement and may lead to an enforcement action pursuant to 38 M.R.S.A. §§ 347-A(1)(A), 347-A(5), or 348, as well as pursuit of other remedies.

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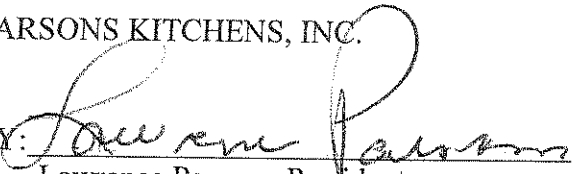
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17. Actions taken pursuant to this Agreement shall be completed in accordance with the requirements of all applicable local, state, and federal laws, rules, and orders including but not limited to licensing requirements.
18. The provisions of this Agreement shall apply to, and be binding on, the parties and their officers, agents, successors, and assigns.

IN WITNESS WHEREOF the parties hereto have executed this Agreement consisting of eight (8) pages:

PARSONS KITCHENS, INC.

BY:   
Lawrence Parsons, President

DATE: 3/14/2011

MAINE BOARD OF ENVIRONMENTAL PROTECTION

BY: \_\_\_\_\_  
Susan M. Lessard, Chair

DATE: \_\_\_\_\_

MAINE OFFICE OF THE ATTORNEY GENERAL

BY: \_\_\_\_\_  
Peter LaFond, Assistant Attorney General

DATE: \_\_\_\_\_